

MINUTES

**MONTANA SENATE
59th LEGISLATURE - REGULAR SESSION**

FREE CONFERENCE COMMITTEE ON HOUSE BILL 115

Call to Order: By **CHAIRMAN KEN TOOLE**, on April 13, 2005 at 4:30 P.M., in Room 303 Capitol.

ROLL CALL

Members Present:

Sen. Ken Toole, Chairman (D)
Rep. Gary Branae, Chairman (D)
Sen. Jeff Essmann (R)
Sen. Kim Gillan (D)
Rep. George G. Groesbeck (D)
Rep. Walter McNutt (R)
Rep. Bill Warden (R)

Members Excused: None.

Members Absent: None.

Staff Present: Lee Heiman, Legislative Branch
Kima Rosling, Committee Secretary

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted: None
Executive Action: HB 115

CHAIRMAN KEN TOOLE, SD 41, HELENA, opened the Conference Committee on HB 115.

REP. MCNUTT informed the Committee that he had served on an interim committee which was looking at tax exempt property because of a resolution from the previous legislative session. He reported the basics from the interim committee; all church property is not exempt, all Hutterite property is not exempt, not all 501-Cs are exempt and those that are have had to go through an application process. They also looked at the percentage of property in the state that is exempt, he noted that 1.7% of the property in Montana is tax exempt. One of the things that they wanted to look at was how this affected policy. He stated that they decided that the policy of the state was fine. He indicated that they had discovered that without the statutory guidelines they were receiving applications for exemptions on land to be used for educational purposes. He remarked that there was no definition in the statute for what would qualify land for an education exception. He informed the Committee that the law currently allows a religion to exempt a parsonage, church, and a parking lot. He asserted that the goal of the committee was to set into statute guidelines, so that anyone who comes in for an exemption would be treated the same. He explained that they had chosen 15 acres for a religious exemption because they could not find anyone who would be impacted by placing a 15 acre limitation on religious exemptions. They decided that they needed a sideboard for education exemptions which would apply to conservation organizations. They came up with criteria for education exemptions during the interim. He commented that they had never looked at bible camps. He thought that there would have been a simple solution for dealing with these situations. He expressed that his goal was not to impact any present exemptions. He believed that the Department of Revenue needs to have, in statute, what the policy is as far as exemptions. He handed out the final report of the Legislative Property Tax Exemption Study Committee from the interim and amendment hb011504.alh.

EXHIBIT(ccs79sb0115a01)

EXHIBIT(ccs79sb0115a02)

{Tape: 1; Side: A; Approx. Time Counter: 0 - 7.9}

REP. MCNUTT explained that the grandfather clause of the amendment would leave everything as it is.

SEN. JEFF ESSMANN, SD 28, BILLINGS, was aware of a few churches that would be over 15 acres. He did not understand why the Department should limit the uses of the land available for

exemptions. He felt that the Department should be able to deal with the exemptions on a case-by-case basis. He expressed that the provision covered by Amendment 9 concerned him.

REP. MCNUTT replied that hospitals from Billings were not involved in the language of the amendment because they had purchased property that they intended to expand onto within the next ten years. He did not think that the interim committee had intended for the hospitals to go out and speculate on land, buy it for a charitable purpose, and then sell the land and make money. He felt that the hospitals in Billings had the full intention to expand onto the extra property. He expressed that the purpose of Amendment 9 was to make sure the hospitals used the property for the right purpose and within a certain amount of time.

{Tape: 1; Side: A; Approx. Time Counter: 7.9 - 14.4}

SEN. GILLAN discussed the issue of land bought by the hospitals and churches in Billings. She thought that there was potential for both these entities to unintentionally use the land for profit.

REP. GARY BRANAE, HD 54, BILLINGS, agreed with **SEN. GILLAN**. He understood the concern presented by **SEN. ESSMANN**. He asked what the Committee thought of peeling back the eight years, after which property is no longer tax exempt if it has not been used for a charitable purpose, that is in the amendment.

Virgil Byford, Department of Revenue, responded. Tape is inaudible.

SEN. ESSMANN explained in most of the hospital expansion cases, they either keep the home which would cover the tax expenses or they could move the home or tear it down which would render taxes negligible.

REP. MCNUTT offered to segregate Amendment 9.

CHAIRMAN TOOLE indicated that they could segregate Amendment 9 and continue discussion on other issues.

{Tape: 1; Side: A; Approx. Time Counter: 14.4 - 19.7}

SEN. GILLAN cited Amendment 3, Page 5, Line 30. She asked for a reminder on the testimony they had heard on this issue.

SEN. ESSMANN reminded the Committee that the testimony covered the fact that there are many parishes that have parsonages which

are now vacant. He explained that they were concerned that with the language from Amendment 3, if they did not have someone in the building, it would be taxable.

REP. GEORGE GROESBECK, HD 74, BUTTE, referred to Amendments 4 and 5. He asked about what the exemption was on the land available for hospitals.

REP. MCNUTT replied that if it was for a public charity it would be limited to 160 acres. He mentioned that this was covered in HB 38. He clarified that when he had talked about a hospital being impacted or impacting the system it was concerned with Amendment 9. He asserted that Amendment 3 had to do with religious exemptions. He added that if the church is exempt currently, they would not have to reapply. He indicated that they remain tax exempt in perpetuity and would only come off the tax exemption if they were sold. If it was sold to a new church then the new church would have to reapply.

{Tape: 1; Side: A; Approx. Time Counter: 19.7 - 25.6}

REP. PAT WAGMAN, HD 62, LIVINGSTON, inferred that **REP. MCNUTT** was talking about the cases where there are multiple residents.

REP. MCNUTT answered that if there was a church that had three clergy members they could have three separate units and could get an exemption for each one.

SEN. GILLAN was fine with the first part of the amendment. However, she was concerned with the second section of the amendment which limited the amount of land that was tax exempt. She referred to churches in her area which took up 20 acres rather than the designated 15. She wanted to know if the remaining five acres would be taxed.

REP. MCNUTT affirmed that the five acres would be taxable.

SEN. GILLAN followed up by talking about a church which was going to build a free recreational facility. She wondered if this would be considered tax exempt.

REP. MCNUTT answered that the church could apply for a charitable exemption. He asserted that they could have multiple exemptions on a large piece of property.

SEN. ESSMANN wondered about the purely charitable purposes for tax exemptions. He wanted to know how the Department would define that and if they could be sure that the facilities would fall under the Department's rules.

Mr. Byford responded. The tape was barely audible.

{Tape: 2; Side: A; Approx. Time Counter: 0 - 2.6}

SEN. ESSMANN asked what would happen if it was solely a swimming pool. He asked if it would be considered purely for charitable use if it was for the public.

Mr. Byford replied. The tape was barely audible.

SEN. ESSMANN followed up by asking about the effect of the Supreme Court Decision. He could not believe that the Department of Revenue would get into a position where they were denying a church's application if they have another charitable organization set up as a part of a sale.

Mr. Byford answered the question. The tape was barely audible.

REP. GROESBECK noted that it was possible to have a purely public charity that had a swimming pool that could be used as a baptismal. He asserted that it could be classified as a recreational exemption or a religious exemption. He felt that there were so many different ways to define the use of areas that it would be hard to classify them.

{Tape: 2; Side: A; Approx. Time Counter: 2.6 - 6.3}

SEN. GILLAN wanted to know if he would consider keeping the reference on the top of page six, the specification placed there by the Senate.

REP. MCNUTT replied that it was a policy change that would change what they do in the future. He did not have a problem with it being in the bill, if they thought that they had a 15 acre exemption for a religious exemption. He did not think that it was good policy to leave it in the bill, because their policy had been to reign in the exemption. He suggested segregating Amendments 4 and 9.

REP. GROESBECK questioned whether, depending on the outcome of segregating Amendment 9, they would also have to go back and change Amendment 1, where it also referred to the eight years.

Motion: **REP. GROESBECK** moved that SB 115 BE AMENDED TO ADOPT ALL AMENDMENTS EXCEPT FOR 4 AND 9.

Discussion: **SEN. GILLAN** asked about Amendment 5, where the 80 acres would be dropped.

REP. MCNUTT replied that the 80 acres was an education exemption, not a religious one.

REP. GILLAN followed up, asking about the Yellowstone Boys and Girls Club.

REP. GROESBECK understood the bill to say that anyone who had an exemption currently would still be covered.

Vote: Motion passed unanimously by voice vote.

SEN. ESSMANN wanted to retain the language that the Senate put on regarding the recreational use of facilities. He thought that the Department would need to do some follow-through management of the exemption in the future. He agreed that it was a policy change but he did not think that it would be abused.

REP. MCNUTT asked if the situation in Billings should dictate statewide policy. He did not think that it was good policy to allow the special problems of a particular area to affect statewide policy.

SEN. GILLAN appreciated **REP. MCNUTT'S** remark. She was concerned that the issues in Billings were the beginning of a trend, because most localities are strapped for resources. She saw a trend towards public facilities being provided by charitable groups.

{Tape: 2; Side: A; Approx. Time Counter: 6.3 - 15.1}

REP. GROESBECK clarified that they were looking at Amendment 4, and whether or not they should insert it back into the bill. He recapped that the discussion between **REP. MCNUTT** and **SEN. GILLAN** had been about language that was in the bill currently.

CHAIRMAN TOOLE stated that Amendment 4 would be changing a lot on the 15 acre spot.

SEN. GILLAN thought that it was the exclusivity of the uses, not the 15 acres.

REP. MCNUTT thought that they were saying, the first part of the amendment should be eliminated from the amendment. This would leave the language placed in by the Senate and would reinstate the language they took out on the 15 acres.

Motion/Vote: **CHAIRMAN TOOLE** moved to **ADOPT THE CONCEPTUAL AMENDMENT TO AMENDMENT 4. Motion passed unanimously by voice vote.**

{Tape: 2; Side: A; Approx. Time Counter: 15.1 - 17.4}

Motion: SEN. GROESBECK moved AMENDMENT 9.

Discussion: REP. GROESBECK said that if they were dealing in good faith with a purely public charity, he did not think that it would be appropriate to limit their time to less than eight years.

REP. MCNUTT commented that at the beginning of the amendment it stated that the property owned by a purely public charity is exempt and the land must be improved for its intended charitable purpose. He asserted that in the application an organization must demonstrate that the land is intended to be a charitable purpose. He explained that it was language developed for the hospital in Billings, to make sure that when they went out to buy their acreage they intended it to be for a charitable purpose.

Substitute Motion: SEN. GILLAN made a substitute motion on Amendment 9 of SB 115 TO PLACE A TIME LIMITATION ON THE EXEMPTION FOR UP TO 15 ACRES.

Discussion: REP. MCNUTT had a problem with limiting the time.

SEN. GILLAN suggested up to ten acres.

REP. GROESBECK would be more comfortable with 15 acres.

{Tape: 2; Side: A; Approx. Time Counter: 17.4 - 23.2}

SEN. GILLAN agreed to the 15 acres.

Vote: Motion passed unanimously by voice vote.

{Tape: 2; Side: A; Approx. Time Counter: 23.2 - 23.7}

Motion/Vote: REP. MCNUTT moved the bill as amended. Motion passed unanimously by voice vote.

{Tape: 2; Side: A; Approx. Time Counter: 23.7 - 24}

ADJOURNMENT

Adjournment: 5:30 P.M.

SEN. KEN TOOLE, Chairman

KIMA ROSLING, Secretary

BRITT NELSON, Transcriber

KT/kr/bn

Additional Exhibits:

EXHIBIT ([ccs79sb0115aad0.PDF](#))